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10/018,095

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Richard C. Walker

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WILMERHALE/DC
1875 PENNSYLVANIA AVE., NW
WASHINGTON, DC 20006

EXAMINER

FISHER, MICHAEL J

ART UNIT

PAPER NUMBER

3689

NOTIFICATION DATE

DELIVERY MODE

03/05/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

teresa.carvalho@wilmerhale.com
michael.mathewson@wilmerhale.com
deborah.lee@wilmerhale.com

Office Action Summary

Application No.

10/018,095

Applicant(s)

WALKER, RICHARD C.

Examiner

MICHAEL J. FISHER

Art Unit

3689

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 76-123 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 76-123 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 76-123 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 6,611,201 to Bishop et al. (Bishop).

As to claim 76, Bishop discloses a system that restricts unauthorized access to a vehicle (title), with sensors recording operations of the vehicle (fig 1), with a memory storing the operations of the sensors (col 16, lines 40-43), a processor coupled to the memory (inherent in that it is a computer), at least one communication device (fig 10), two-way transmission/pager (col 16, lines 37-40), a radio frequency transceiver (fig 1), a physical connector interface port (fig 8), maintained in a secure manner (built into the vehicle would make it secure), a multi-tasking, law enforcement device that communicates with the computer (col 13, lines 20-25), a remote memory (fig 1), a GPS

system (col 4, lines 63-65), at least one two-way communication system including a security device (to turn off the vehicle's subsystems). Bishop does not specifically name a "PFN" or "TRAC", however, analogous systems are disclosed (col 16, lines 28-48).

Bishop does not, however, teach using optical light data transmission or a wireless telephone system. These are merely different mechanisms in communication and are old and well known, the use of these would be well within the purview of one of ordinary skill in the art as matters of obvious design choice.

As to claim 77, Bishop discloses an electrical actuating accessory (figs 2(a) and 2(b)), the system uses electricity (figs 2(a) and 2(b) (power source 211)).

As to claim 78, Bishop teaches using power transfer mechanisms (fig 2(d)).

As to claim 79, Bishop teaches a report back system (col 16, lines 45-48).

As to claim 80, the system interfaces with electrical parts (fig 2(c)).

As to claims 81,82, the prior art has a processor (fig 8), controls electronics on the vehicle, including a solenoid (301, fig 8) and further, controls electrical energy production (fig 10), which is inherently chemical in nature.

As to claims 83,84, Bishop teaches controlling the controls that make the vehicle move (col 1, lines 50-62).

As to claims 85,86,87, Bishop does not, however, teach how to stop or keep the vehicle from moving, however, the exact order of braking would be a matter of obvious, engineering design choice and would not render the instant invention patentably distinct.

As to claim 88, the system controls the vehicle, thereby meeting the limitations as claimed.

As to claim 89, Bishop teaches a back-up system (1001, "back-up battery").

As to claims 90 and 91, as the prior art teaches communication, and as the limitations in the instant claims are intended use, the prior art meets the limitations as claimed.

As to claim 92, as previously discussed, ignition components are controlled.

As to claims 93,94, the system "deceives" the device to act in a certain way (the vehicle is controlled).

As to claim 95, the system determines where the signal is meant to go, either to the occupant as a recall warning or to the vehicle's accessories to shut them down, thereby meeting the limitations as claimed.

As to claim 96, the components controlled are electrical (all figs).

As to claim 97, the system reports back, as previously discussed.

As to claim 98, the vehicle is tracked anywhere, there being no limitation to restrict "multi-equipment locations", thereby meeting the limitations as claimed. Further, the system is shown to shut the vehicle down (col 2, lines 54-60).

As to claim 99, Bishop discloses providing services for repair and maintenance (recall information is a "repair and maintenance" service) it is old and well known in the art to charge for services and Bishop teaches using the device to collect funds (col 22, lines 42-49), therefore, it would have been obvious to charge for the service in order to

stay in business and to use the system to transmit charges as it is shown as a good way to get information to the driver.

As to claim 100, it would have been obvious to one of ordinary skill in the art to prohibit transferring devices in an unauthorized manner as the system can be used to ensure loan repayment and if a device were moved (removed), it could make the system non-functional and therefore, could not perform its task.

As to claim 101, the device works remotely (fig 1).

As to claim 102, the system is constructed application specific (to work with a vehicle). It would be obvious to use easy to remove and replace items to ease repair.

As to claim 103, the device is utilized for accountability (col 16, lines 40-45).

As to claims 104,105, it would have been obvious to use industry standards because they are used to ease use of items that are standard in the industry.

As to claim 106, Bishop does not teach using the Internet, however, it would have been obvious to one of ordinary skill in the art to allow the computer in the system to operatively connect with the Internet as the Internet is a global network and this would increase the range of the vehicle.

As to claims 107, the system is shown to be used by law enforcement (col 1, lines 57-63).

As to claim 108, it would have been obvious to supply a secure, back-up power supply as the system is shown to be used for dispute resolution (col 16, lines 40-45), and a power lose could mean losing data.

As to claim 109, as discussed, the system is used for all devices on the vehicle.

As to claim 110, the device sends and receives information, thereby meeting the limitations as claimed.

As to claim 111, the device comprises human machine interfacing (as is inherent in any computer with an input device that is used by humans, further, as previously discussed, Bishop teaches providing information to a human (the driver), thereby meeting the limitations as claimed).

As to claim 112, Bishop does not specifically mention continuous communication, however, it would have been obvious to one of ordinary skill in the art to provide continuous communication to ensure that any directives from a law enforcement officer are followed.

As to claim 113, the items are tracked and controlled (as previously discussed), the actual chips and circuits would not render the instant invention patentably distinct unless they were the inventive concept and new, which is not the case in the instant invention.

As to claim 114, the vehicle number is used (as previously discussed), however, the prior art does not specifically teach how to encrypt, however, it is old and well known in the art to use encryption and therefore, it would have been obvious to one of ordinary skill in the art to use encryption to ensure that any personal information (such as loan information for instance) is encrypted and kept private.

As to claim 115, it would have been obvious to ensure the safety of the system to ensure that no user is hurt.

As to claim 116, as previously discussed, the prior art teaches billing.

As to claim 117, Bishop teaches an onboard and offboard storage of messages (col 16, lines 10-48), Bishop does not, however, teach two onboard storage of data, however, it would have been obvious to one of ordinary skill in the art to have a back-up storage as (as previously discussed), the prior art teaches saving the data for dispute resolution.

As to claim 118, there is a GPS device (figs 7a, 7b), it is old and well known in the art to use identification cards with photograph to ensure identity, therefore, it would have been obvious to do so if checking the identity of the user.

As to claim 119, access requires an access terminal inherently or else nothing could be accessed, further, the system requires the vehicle ID (as previously discussed), personal identification (for loans for instance), and any geographic data (via the GPS), the data is shown to be retrieved (as previously discussed), thereby meeting the limitations as claimed.

As to claim 121, it is old and well known to use authorization, therefore, it would have been obvious to require authorization as the system is shown to be used by law enforcement (as previously discussed).

As to claim 122, the devices interface (fig 10) and the entire device is a C.O.T.S. as the vehicle is not shown to be customized.

As to claim 123, Bishop teaches a "wearable" device (a cell phone, col 16, lines 34-37).

Response to Arguments

Applicant's arguments filed 12-16-08 have been fully considered but they are not persuasive. As previously discussed and noted above, the prior art does teach the claimed invention. Further, as new claim 76 is identical to old claim 2, merely stating that the prior art does not teach the limitations without explaining how the examiner misapplied the art (specifically noting that the figs or lines noted are incorrectly interpreted), it is not argument to merely state that the prior art "fails to disclose" this combination. Further, as the rejection is under 35 U.S.C. 103, the examiner inherently notes that the reference does not include all limitations.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL J. FISHER whose telephone number is (571)272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MF
3/2/09

/Tan Dean D. Nguyen/
Primary Examiner, Art Unit 3689